

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MARCO ANTONIO AVILES-AVILES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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1:23-CV-1483-RP
[1:21-CR-152-RP-3]

ORDER

Before the Court is Petitioner Marco Antonio Aviles-Aviles’s (“Aviles-Aviles”) Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. (Dkt. 706). Aviles-Aviles filed his motion on December 6, 2023. (*Id.*). The case was referred to United States Magistrate Judge Mark Lane for findings and recommendations, pursuant to 28 U.S.C. § 636(b). Judge Lane filed his amended report and recommendation on August 13, 2024. (Dkt. 757). In his report and recommendation, Judge Lane recommends that the Court deny Aviles-Aviles’s motion, as well as deny his motion for his 2255 motion to be construed as a notice of appeal. (*Id.* at 8). Aviles-Aviles filed objections to the report and recommendation. (Dkts. 764, 766).

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because Aviles-Aviles objected to the report and recommendation, the Court reviews the report and recommendation *de novo*. Having done so and for the reasons given in the report and recommendation, the Court overrules Aviles-Aviles’s objections and adopts the report and recommendation as its own order.

Accordingly, **IT IS ORDERED** that the report and recommendation of United States Magistrate Judge Mark Lane, (Dkt. 757), is **ADOPTED**. Aviles-Aviles's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody, (Dkt. 706), is **DENIED**.

IT IS FURTHER ORDERED that Aviles-Aviles's motion for his 2255 motion to be construed as a notice of appeal, (Dkt. 755), is **DENIED**.

IT IS FINALLY ORDERED that a certificate of appealability is **DENIED**.

SIGNED on August 29, 2025.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE